

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D33608
G/mv

_____AD3d_____

Argued - December 15, 2011

WILLIAM F. MASTRO, A.P.J.
RUTH C. BALKIN
CHERYL E. CHAMBERS
SHERI S. ROMAN, JJ.

2010-11224

DECISION & ORDER

George Kotzias, appellant, v
Constantidis Panagiotis, respondent.

(Index No. 29125/08)

Sacco & Fillas, LLP, Whitestone, N.Y. (Luigi Brandimarte of counsel), for appellant.

Robert P. Tusa (Sweetbaum & Sweetbaum, Lake Success, N.Y. [Marshall D. Sweetbaum], of counsel), for respondent.

In an action to recover damages for personal injuries, the plaintiff appeals from an order of the Supreme Court, Queens County (Grays, J.), entered September 17, 2010, which granted the defendant's motion for summary judgment dismissing the complaint.

ORDERED that the order is affirmed, with costs.

In support of his motion for summary judgment, the defendant made a prima facie showing of his entitlement to judgment as a matter of law by presenting evidence that he approached and entered the intersection with the right-of-way, and that the plaintiff violated Vehicle and Traffic Law § 1142(a) by failing to yield the right-of-way, which constituted negligence as a matter of law (*see Thompson v Schmitt*, 74 AD3d 789; *McCain v Larosa*, 41 AD3d 792, 793; *Gergis v Miccio*, 39 AD3d 468), and resulted in the subject accident. Inasmuch as the defendant had the right-of-way, he was entitled to anticipate that the plaintiff would obey traffic laws which required the plaintiff to yield (*see Yelder v Walters*, 64 AD3d 762, 764; *Thompson v Schmitt*, 74 AD3d at 790; *Klein v Crespo*, 50 AD3d 745, 745-746). In opposition, the plaintiff failed to raise a triable issue of fact.

Accordingly, the Supreme Court properly granted the defendant's motion for summary judgment dismissing the complaint.

MASTRO, A.P.J., BALKIN, CHAMBERS and ROMAN, JJ., concur.

ENTER:


Aprilanne Agostino
Clerk of the Court